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RICHARD A. MARSHACK

7 UNITED STATES BANKRUPTCY COURT

8 CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION

9
10 In re
11 NORTHERN HOLDING, LLC,
12 Debtor.

Case No. 8:20-bk-13014-SC
Chapter 7
JOINT STATUS REPORT REGARDING
ONGOING CIVIL CONTEMPT
PROCEEDINGS
[OSC DOCKET NO. 359]

15 Continued Hearing
16 Date: September 27, 2023
17 Time: 11:00 a.m.
Ctrm: 5C – via ZoomGov
18 Location: United States Bankruptcy Court
411 West Fourth Street
Santa Ana, CA 92701-4593

19 TO THE HONORABLE SCOTT C. CLARKSON, UNITED STATES BANKRUPTCY JUDGE,
20 THE OFFICE OF THE UNITED STATES TRUSTEE, AND ALL INTERESTED PARTIES:

21 Richard A. Marshack, the chapter 7 trustee (“Trustee”) of the bankruptcy estate (“Estate”) of
22 Northern Holding, LLC (“Debtor”), submits this status report regarding the ongoing civil contempt
23 proceedings against LeRoy E. Codding, IV (“Codding”), as a joint status report with Codding.

24 **1. Factual Restatement**

25 On October 28, 2020, Debtor filed a voluntary petition for bankruptcy under Chapter 11 of
26 Title 11 of the United States Code, initiating the above-captioned bankruptcy case. Codding was the
27 managing member of Debtor. Codding is also the managing member of Fluid Wine Fund I, LLC, a
28

1 Nevada limited liability company (“FWF”), which is the 100% shareholder of Rabbit Ridge Wine
2 Sales, Inc. (“Rabbit Ridge”).

3 On June 15, 2021 (“Conversion Date”), the case was converted to Chapter 7. Richard A.
4 Marshack was appointed as the Chapter 7 trustee of the converted case.

5 On August 9, 2021, as Dk. No. 184, a stipulation (“Turnover Stipulation”) signed by Trustee
6 and Codding (on behalf of Rabbit Ridge) was filed, where Codding, on behalf of Rabbit Ridge,
7 agreed to entry of an order for turnover of real property commonly known as 1172 San Marcos Road
8 (“San Marcos Property”), and adjacent real property APN No. 027-145-022 (“Texas Road
9 Property”).

10 Also on August 9, 2021, as Dk. No. 186, Trustee filed a motion to authorize operations of on
11 Estate properties for the limited purpose of growing, cultivating, and harvesting grapes for the Fall
12 2021 period (“Operate Motion”). Attached to the Operate Motion was a declaration by Codding,
13 signed by Codding, and also a farm operator agreement (“Farm Agreement”) signed by Trustee and
14 Codding. The Farm Agreement was jointly drafted by Trustee and Codding. In connection with the
15 Operate Motion, Trustee negotiated a stipulated agreement to use cash collateral with secured
16 creditor Farm Credit West, FLCA (now AgWest Farm Credit, FCLA), which was read into the
17 record at the hearing on the Operate Motion.

18 On August 23, 2021, as Dk. No. 196, the Court entered an order approving the Turnover
19 Stipulation (“Turnover Order”).

20 On September 7, 2021, as Dk. No. 211, the Court entered an order approving the Operate
21 Motion and the Farm Agreement (“Operate Order”). Under the Operate Order, Codding was
22 authorized to operate a farming business on the San Marcos Property, Texas Road Property, and a
23 third parcel commonly known as 2380 Live Oak Road, Paso Robles, CA (“Live Oak Property” and
24 together with the other two properties, the “Properties”).

25 Between August 26, 2021 and November 24, 2021, Codding and/or Rabbit Ridge directly
26 received funds from the sale of grapes grown on and harvested from the Properties in 2021, in the
27 total amount of \$140,931.91. Trustee never provided any authorization to Codding or Rabbit Ridge
28

1 to directly receive any funds from farming operations.

2 On April 1, 2022, as Dk. No. 304, Trustee filed a motion for issuance of an order to show
3 cause re: civil contempt (“OSC Motion”), arguing that Codding’s actions violated both the Turnover
4 Order and the Operate Order.

5 On July 1, 2022, as Dk. No. 350, Codding filed an opposition to the OSC Motion.

6 On October 26, 2022, as Dk. No. 359, the Court entered an order to show cause against
7 Codding (previously defined as “OSC”), setting an evidentiary hearing for February 16, 2023, which
8 was eventually continued to May 11, 2023. Trial briefs and evidence was submitted to the Court.

9 On May 11, 2023, the Court conducted a hearing on the OSC, and testimony of witnesses
10 was presented both in person and over ZoomGov. At the conclusion of the hearing, Trustee and
11 Codding entered into stipulated terms to resolve the OSC, which were read into the record. The
12 Court set a continued hearing date for June 15, 2023, at 11:00 a.m.

13 On May 12, 2023, as Dk. No. 394, Trustee filed a stipulation signed by Codding which
14 memorialized and supplemented the terms read into the record (“Contempt Stipulation”). A true and
15 correct copy of the Contempt Stipulation is attached to the Request for Judicial Notice (“RJN”) as
16 Exhibit “1.” The Contempt Stipulation provided that Codding would, *inter alia*: (1) provide a “full
17 and complete list of any and all vendors, contractors, and invoices which have not been paid in full
18 for any work solely for maintaining and harvesting grapes from the Properties from August 1, 2021
19 through November 1, 2021 (‘Operating Period’), and shall provide contact information for each
20 vendor, contractor , and invoice, and a copy of such invoice”; and (2) pay \$140,000 in
21 compensatory sanctions to the Estate, with an option to pay \$100,000 by June 1, 2023 with the
22 remaining balance to be waived.

23 On May 16, 2023, as Dk. No. 397, secured creditor AgWest Farm Credit, FCLA (“FCW”)
24 filed an objection to the Contempt Stipulation.

25 On May 17, 2023, Codding sent multiple e-mail correspondences to Trustee providing
26 invoices and information regarding the outstanding unpaid contractors and services for the
27 Operating Period.

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1 On May 23, 2023, as Dk. No. 401, the Court entered an order advancing the continued
2 hearing on the OSC to June 14, 2023, at 11:00 a.m. – via ZoomGov, and providing a briefing
3 schedule on FCW’s objection to the Contempt Stipulation.

4 No funds were received by Trustee by 4:59 p.m. Pacific Prevailing Time on June 1, 2023,
5 despite multiple correspondences exchanged between Codding and Trustee regarding the details for
6 delivering payment.

7 On June 2, 2023, as Dk. No. 405, Trustee and FCW filed a stipulation to resolve FCW’s
8 objection to the Contempt Stipulation (“Objection Stipulation”).

9 On June 2, 2023, as Dk. No. 406, the Court entered an order approving the Contempt
10 Stipulation as modified by the Objection Stipulation (“OSC Order”).

11 No funds were paid to Trustee by June 15, 2023. The hearing on the OSC was further
12 continued to September 13, 2023.

13 On July 28, 2023, as Dk. No. 416, Trustee filed yet another stipulation with Codding which
14 increased the amount to be paid to \$160,000, and for a two-week further continuance of the hearing
15 on the OSC (“July Stipulation”).

16 On July 31, 2023, as Dk. No. 417, the Court entered an order approving the July Stipulation,
17 and providing in pertinent part: “If \$160,000 is not received by the Estate by 11:59 p.m. Pacific
18 Prevailing Time on September 12, 2023, either in the form of certified funds or verified funds, the
19 Court may enter an order adjudicating Codding in civil contempt and consider the imposition of
20 appropriate compensatory and coercive sanctions, including the award of compensatory damages
21 including reasonable attorneys’ fees, or civil incarceration to coerce Codding to comply with the
22 Court’s orders.”

23 **2. Status Report by Trustee**

24 Trustee initially received regular updates from Codding during June 2023. Now, Trustee
25 receives no substantive updates from Codding other than vague, unspecified promises to pay.
26 Trustee does not want any further continuances of the hearing on this matter, and has generously
27 granted multiple extensions to Codding to this point. No more extensions will be agreed to by
28

1 Trustee. Codding must either pay or be subjected to a sanctions order. The deadline to make the
2 \$160,000 payment was September 12, 2023, at 11:59 p.m. No payment was received, and Trustee
3 has not agreed to any further extensions.

4 **3. Status Report by Codding**

5 Efforts to fund this commitment, have gone forward with full force. Due to substantial losses
6 sustained in the farming contract, outside of the Northern BK entity, securing additional
7 borrowing to fund this commitment has proven difficult. Codding has had to pivot several times
8 and has done so and finally has had success with proper collateral to fund payment to Trustee as
9 committed. This update will include funding approval and timing on a secured loan from an
10 institutional lender to finally get this paid off. Also, Codding offers to add \$10,000 (for a total of
11 \$170,000) to help cover legal and admin expense. Together with the trustee, Codding set an arbitrary
12 deadline because it's important to work off of deadlines. That was not met to the day however,
13 funding is in place to get this commitment completed.

14 That would not occur were Codding unable to operate the business day today, i.e. forced into
15 civil detainment. Such an outcome would only serve to destroy this solution for all parties, as
16 funding would then not occur. Codding wishes to see this brought to his conclusion and funding
17 completed so vendors and other parties can get paid. Have had to pivot many times to find suitable
18 collateral. Finally got it figured. Commit letter to accompany this filing. It indicates a close for
19 funding as of September 25. Out of an abundance of caution, suggest we agree to set it for first week
20 of October.

21 DATED: September 13, 2023

MARSHACK HAYS WOOD LLP

22 By: /s/ Tinho Mang
D. EDWARD HAYS
TINHO MANG
23 Attorneys for Chapter 7 Trustee
24 RICHARD A. MARSHACK

25 DATED: September 13, 2023

26 By: Leroy E. Codding, IV
27 LEROY E. CODDING, IV

28

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
870 Roosevelt, Irvine, CA 92620

A true and correct copy of the foregoing document entitled; **JOINT STATUS REPORT REGARDING ONGOING CIVIL CONTEMPT PROCEEDINGS** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **September 13, 2023**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL**: On **September 13, 2023**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

DEBTOR

NORTHERN HOLDING, LLC
ATTN: OFFICER, A MANAGING OR GENERAL
AGENT, OR TO ANY OTHER AGENT
AUTHORIZED BY APPOINTMENT OR LAW TO
RECEIVE SERVICE
13217 JAMBOREE RD #429
TUSTIN, CA 92782

INTERESTED PARTY

LEE CODDING
13217 JAMBOREE ROAD,
#429
TUSTIN, CA 92782

**SECURED CREDITOR / PROOF
OF CLAIM 4-1 ADDRESS**

FARM CREDIT WEST, FCLA
FRANDZEL ROBINS BLOOM &
CSATO, L.C.
ATTENTION: MICHAEL GOMEZ
1000 WILSHIRE BOULEVARD,
19TH FLOOR
LOS ANGELES, CA 90017

**SECURED CREDITOR / PROOF OF
CLAIM 4-1 ADDRESS**

FARM CREDIT WEST, FCLA
ATTENTION: KEVIN E. RALPH
3755 ATHERTON DRIVE
ROCKLIN, CA 95765

SECURED CREDITOR

FARM CREDIT WEST
ATTN: OFFICER, A
MANAGING OR GENERAL
AGENT, OR TO ANY OTHER
AGENT AUTHORIZED BY
APPOINTMENT OR LAW TO
RECEIVE SERVICE
3755 ATHERTON RD
11707 FAIR OAKS BLVD
ROCKLIN, CA 95765

Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL**: Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **September 13, 2023**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

VIA PERSONAL DELIVERY:

PRESIDING JUDGE'S COPY
HONORABLE SCOTT C. CLARKSON
US BANKRUPTCY COURT
411 WEST FOURTH STREET, SUITE 5-097
SANTA ANA, CA 92701-4593

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

September 13, 2023

Cynthia Bastida

/s/ Cynthia Bastida

Date

Printed Name

Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): CONTINUED:

- William H Brownstein Brownsteinlaw.bill@gmail.com
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